

August 8, 2006

Cheryle A. Broom
King County Auditor
516 Third Avenue, Room W1033
Seattle, WA 98104-3272

Dear Ms. Broom:

I have reviewed the referenced performance audit on the management of the Brightwater Treatment Plant engineering services contract amendments and appreciate the opportunity to respond to the findings and recommendations in your report. Your audit evaluated the Wastewater Treatment Division's (WTD) management of contract amendments for the Brightwater Treatment Plant engineering services, assessed the cost-effectiveness of lump sum and general contractor/construction management (GC/CM) contracting methodologies, and identified opportunities for improvement. While I agree in large part with the recommendations, I take exception to some of the conclusions and findings that led to the recommendations.

I would like to begin by stating that I am extremely proud of the progress that we, in King County, have made in siting and designing a new regional wastewater treatment facility for citizens in our service area. This project has presented us with multiple challenges, as well as opportunities, ranging from a complex siting process, demanding technical requirements, public acceptance issues, extensive permitting requirements, and cost control during extraordinary market inflation.

I believe we have responded appropriately and prudently to these challenges and opportunities, while at the same time maintaining a firm commitment to deliver a high performance treatment facility on schedule. In fact, the value engineering changes proposed by the design team helped the county avoid \$86 million in construction cost increases without compromising quality or backsliding on any of our promises to the community.

In my judgment, the success of the Brightwater project to date reflects sound and flexible management by the WTD. It is generally recognized that the Brightwater project is one of the most complex undertaken by King County. The council's oversight monitoring consultant, appointed by the King County Council, stated in its June 2005 report to the council that the project has been well managed. It is also noteworthy that King County's bond rating has been upgraded, in part, due to the confidence that the rating agencies have regarding management of the Brightwater project.

I have long understood that the successful siting and construction of a new wastewater treatment facility would be difficult and would require creativity and innovation by both the executive and legislative branches of King County. The progress we have made to date reflects a full understanding of the complicated needs of this project as well as the willingness by King County to take actions necessary to ensure success of the project. I believe it is important that we reflect on some of our policy directives on this project.

For example, I proposed, and the King County Council approved, the WTD Productivity Program, which directed WTD to undertake innovative techniques, including alternative contracting strategies, to improve capital program delivery and contain costs. This resulted in the selection of the “lump sum” for the final design and GC/CM contracting approach for construction of the treatment plant as a means to ensure that the project will be delivered on time and with decreased risk.

During the past several years, significant scrutiny and review of the Brightwater project has been undertaken by citizens, regulatory agencies, environmental groups, local jurisdictions, and other interested parties. It has always been my position that, in order to successfully complete the Brightwater Treatment Plant, we would need to work with all interested parties to develop effective policies for dealing with legitimate concerns and issues. Many of these policies imposed additional administration requirements on the Brightwater project, but were directly linked to success of the project. Among these initiatives, which I proposed and the council approved or endorsed are:

- Project Labor Agreements – one for the treatment plant and one for conveyance;
- Owner Controlled Insurance Program (OCIP);
- an emphasis on small business and women/minority business enterprise participation, including a commitment to fund up to \$1 million in additional costs to compensate small business for payment of double fringe benefits;
- use of sustainable building practices;
- state-of-the-art odor control; and
- mitigation agreements with affected communities.

Given the number of policy directives for the highly complex project, I cannot agree with one of the major findings in your report: that inconsistent management practices and contracting methods contributed to higher design costs that were higher than industry averages. To help put these statements in context, it is important to emphasize that the primary driver for cost increases has been extraordinary inflation in construction materials, which has been outside the control of the county, or conditions agreed to in order to address community and environmental concerns. The council has been briefed on a regular basis on outside factors, including the effect of inflationary pressures from construction commodity and material price increases, new regulatory changes and other requirements, and the resultant value engineering efforts undertaken to mitigate construction cost increases. Although the value engineering required that the county pay more for design of Brightwater than originally anticipated, it was deemed to be a cost-effective investment to mitigate the increased construction estimates by \$86 million.

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The number of and dollar amount of consultant contract amendments reflect the need to respond to changing conditions, not inconsistent management. Each amendment went through extensive negotiations between the consultant and King County, resulting in amendments to the treatment plant design contract that were \$10.5 million lower than what was proposed by the consultant.

The audit compares the Brightwater design costs to a survey conducted by the Milwaukee Metropolitan Sewerage District (MMSD) in 1982. This report states that design costs should be in the six to 12 percent range of total projects costs. The audit report puts the Brightwater treatment plant design costs at 17 percent, but this is not an apples-to-apples comparison of Brightwater to the projects surveyed in the MMSD survey. When Brightwater's comparable design costs are compared to the survey projects, the design cost is 9.2 percent of construction or 10.7 percent if the land costs are removed. Brightwater falls within the MMSD survey results.

King County has much to be proud of regarding the Brightwater project. Nevertheless, we also recognize that improvements should be made to the Executive policies and procedures governing procurement and contracting and to the manner in which the engineering services contract is managed by WTD. We support the majority of the auditor's recommendations. I have attached our specific responses to the findings and recommendations.

You may be assured that we are committed to making the necessary changes to more closely adhere to county policy and procedures. It is significant to note, at this point, only 17.3 percent of the budget for the Brightwater Treatment Plant has been expended. As such, it is an excellent point in time to receive this valuable feedback on our performance. If you have any questions regarding our response, please feel free to contact Christie True, Manager of the Major Capital Improvements Program in the Wastewater Treatment Division of the Department of Natural Resources and Parks, at 206-684-1236.

Sincerely,

Ron Sims
King County Executive

Attachments

cc: Paul Tanaka, County Administrative Officer, Department of Executive Services (DES)
Pam Bissonnette, Director, Department of Natural Resources and Parks (DNRP)
Ken Guy, Division Director, Finance and Business Operations Division, DES
Don Theiler, Division Director, Wastewater Treatment Division (WTD), DNRP
Christie True, Manager, Major Capital Improvements Program, WTD, DNRP
Dave Lawson, Internal Audit Manager, Office of Management and Budget, DES